

AMENDED IN ASSEMBLY MAY 3, 2000

AMENDED IN ASSEMBLY APRIL 5, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2776

Introduced by Assembly Member ~~Aanestad~~ Members
Aanestad and Longville

February 25, 2000

An act to amend ~~Section 726~~ Sections 202, 726, and 730 of the Welfare and Institutions Code, relating to ~~children~~ juvenile courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2776, as amended, Aanestad. ~~Children~~ Juvenile courts: terms of imprisonment.

Existing law provides that the purpose of juvenile court law is to provide for the protection and safety of the public and of minors under the jurisdiction of the juvenile court. Existing law further provides that minors under the jurisdiction of the juvenile court shall, in conformity with the interests of public safety, receive care, treatment, and guidance consistent with their best interests, and that this guidance may include punishment that is consistent with rehabilitative objectives. Existing law defines punishment for this purpose.

This bill would amend the definition of punishment for the purposes of the above provisions to provide that it includes commitment of a person who, at the time of disposition, is 18

years of age or older to a county jail, for a period not to exceed one year.

Existing law provides that if a child is physically confined as part of the order adjudging the child a ward of the court because of a criminal act, the order may not provide for physical confinement in excess of the maximum term that an adult might be imprisoned for the same crime, as specified. Existing law defines “physical confinement” for this purpose.

This bill would amend the definition of “physical confinement” to include placement in a county jail *if, at the time of disposition, the person to be confined is 18 years of age or older and the confinement does not exceed one year.*

Existing law provides that a minor adjudged a ward of the court of the ground that he or she has violated specified criminal laws may be committed to the county juvenile hall, a juvenile home, a ranch, a camp, or a forestry camp under specified conditions.

This bill would provide that if, at the time of disposition, a person adjudged a ward of the court as described above is 18 years of age or older, the court may commit the minor to a county jail for a period not to exceed one year.

This bill would impose a state-mandated local program by imposing additional duties on county correctional officers to process and detain wards of the juvenile court who have been committed to a county jail.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 726 of the Welfare and~~
- 2 ~~SECTION 1. Section 202 of the Welfare and~~
- 3 ~~Institutions Code is amended to read:~~

1 202. (a) The purpose of this chapter is to provide for
2 the protection and safety of the public and each minor
3 under the jurisdiction of the juvenile court and to
4 preserve and strengthen the minor's family ties
5 whenever possible, removing the minor from the custody
6 of his or her parents only when necessary for his or her
7 welfare or for the safety and protection of the public.
8 When removal of a minor is determined by the juvenile
9 court to be necessary, reunification of the minor with his
10 or her family shall be a primary objective. When the
11 minor is removed from his or her own family, it is the
12 purpose of this chapter to secure for the minor custody,
13 care, and discipline as nearly as possible equivalent to that
14 which should have been given by his or her parents. This
15 chapter shall be liberally construed to carry out these
16 purposes.

17 (b) Minors under the jurisdiction of the juvenile court
18 who are in need of protective services shall receive care,
19 treatment and guidance consistent with their best
20 interest and the best interest of the public. Minors under
21 the jurisdiction of the juvenile court as a consequence of
22 delinquent conduct shall, in conformity with the interests
23 of public safety and protection, receive care, treatment,
24 and guidance that is consistent with their best interest,
25 that holds them accountable for their behavior, and that
26 is appropriate for their circumstances. This guidance may
27 include punishment that is consistent with the
28 rehabilitative objectives of this chapter. If a minor has
29 been removed from the custody of his or her parents,
30 family preservation and family reunification are
31 appropriate goals for the juvenile court to consider when
32 determining the disposition of a minor under the
33 jurisdiction of the juvenile court as a consequence of
34 delinquent conduct when those goals are consistent with
35 his or her best interests and the best interests of the
36 public. When the minor is no longer a ward of the juvenile
37 court, the guidance he or she received should enable him
38 or her to be a law-abiding and productive member of his
39 or her family and the community.

(c) It is also the purpose of this chapter to reaffirm that the duty of a parent to support and maintain a minor child continues, subject to the financial ability of the parent to pay, during any period in which the minor may be declared a ward of the court and removed from the custody of the parent.

(d) Juvenile courts and other public agencies charged with enforcing, interpreting, and administering the juvenile court law shall consider the safety and protection of the public, the importance of redressing injuries to victims, and the best interests of the minor in all deliberations pursuant to this chapter. Participants in the juvenile justice system shall hold themselves accountable for its results. They shall act in conformity with a comprehensive set of objectives established to improve system performance in a vigorous and ongoing manner.

(e) As used in this chapter, “punishment” means the imposition of sanctions. It shall not include a court order to place a child in foster care as defined by Section 727.3. Permissible sanctions may include the following:

(1) Payment of a fine by the minor.

(2) Rendering of compulsory service without compensation performed for the benefit of the community by the minor.

(3) Limitations on the minor’s liberty imposed as a condition of probation or parole.

(4) Commitment of the minor to a local detention or treatment facility, such as a juvenile hall, camp, or ranch.

(5) Commitment of the minor to the Department of the Youth Authority.

(6) *Commitment of a person who, at the time of disposition, is 18 years of age or older to a county jail, for a period not to exceed one year.*

“Punishment,” for the purposes of this chapter, does not include retribution.

(f) In addition to the actions authorized by subdivision (e), the juvenile court may, as appropriate, direct the offender to complete a victim impact class, participate in victim offender conferencing subject to the victim’s consent, pay restitution to the victim or victims, and

1 make a contribution to the victim restitution fund after
2 all victim restitution orders and fines have been satisfied,
3 in order to hold the offender accountable or restore the
4 victim or community.

5 *SEC. 2.* Institutions Code is amended to read:

6 726. In all cases wherein a minor is adjudged a ward
7 or dependent child of the court, the court may limit the
8 control to be exercised over the ward or dependent child
9 by any parent or guardian and shall by its order clearly
10 and specifically set forth all those limitations, but no ward
11 or dependent child shall be taken from the physical
12 custody of a parent or guardian unless upon the hearing
13 the court finds one of the following facts:

14 (a) That the parent or guardian is incapable of
15 providing or has failed or neglected to provide proper
16 maintenance, training, and education for the minor.

17 (b) That the minor has been tried on probation in such
18 custody and has failed to reform.

19 (c) That the welfare of the minor requires that custody
20 be taken from the minor's parent or guardian.

21 In any case in which the minor is removed from the
22 physical custody of his or her parent or guardian as the
23 result of an order of wardship made pursuant to Section
24 602, the order shall specify that the minor may not be held
25 in physical confinement for a period in excess of the
26 maximum term of imprisonment which could be imposed
27 upon an adult convicted of the offense or offenses which
28 brought or continued the minor under the jurisdiction of
29 the juvenile court.

30 As used in this section and in Section 731, "maximum
31 term of imprisonment" means the longest of the three
32 time periods set forth in paragraph (2) of subdivision (a)
33 of Section 1170 of the Penal Code, but without the need
34 to follow the provisions of subdivision (b) of Section 1170
35 of the Penal Code or to consider time for good behavior
36 or participation pursuant to Sections 2930, 2931, and 2932
37 of the Penal Code, plus enhancements which must be
38 proven if pled.

39 If the court elects to aggregate the period of physical
40 confinement on multiple counts, or multiple petitions,

1 including previously sustained petitions adjudging the
2 minor a ward within Section 602, the “maximum term of
3 imprisonment” shall be the aggregate term of
4 imprisonment specified in subdivision (a) of Section
5 1170.1 of the Penal Code, which includes any additional
6 term imposed pursuant to Section 667, 667.5, 667.6, or
7 12022.1 of the Penal Code, and pursuant to Section 11370.2
8 of the Health and Safety Code.

9 If the charged offense is a misdemeanor or a felony not
10 included within the scope of Section 1170 of the Penal
11 Code, the “maximum term of imprisonment” is the
12 longest term of imprisonment prescribed by law.

13 “Physical confinement” means placement in a juvenile
14 hall, ranch, camp, forestry camp or secure juvenile home
15 pursuant to Section 730, in any institution operated by the
16 Youth Authority, or in a county jail *if, at the time of*
17 *disposition, the person to be confined to a county jail is 18*
18 *years of age or older, and the confinement does not*
19 *exceed one year.*

20 Nothing in this section shall be construed to limit the
21 power of the court to retain jurisdiction over a minor and
22 to make appropriate orders pursuant to Section 727 for
23 the period permitted by Section 607.

24 *SEC. 3. Section 730 of the Welfare and Institutions*
25 *Code is amended to read:*

26 730. (a) When a minor is adjudged a ward of the
27 court on the ground that he or she is a person described
28 by Section 602, the court may order any of the types of
29 treatment referred to in Section 727, and as an additional
30 alternative, may commit the minor to a juvenile home,
31 ranch, camp, or forestry camp. If there is no county
32 juvenile home, ranch, camp, or forestry camp within the
33 county, the court may commit the minor to the county
34 juvenile hall. *If, at the time of disposition, a person*
35 *adjudged a ward of the court on the ground that he or she*
36 *is a person described by Section 602 is 18 years of age or*
37 *older, the court may commit the minor to a county jail for*
38 *a period not to exceed one year.*

39 (b) When a ward described in subdivision (a) is placed
40 under the supervision of the probation officer or

1 committed to the care, custody, and control of the
2 probation officer, the court may make any and all
3 reasonable orders for the conduct of the ward including
4 the requirement that the ward go to work and earn
5 money for the support of his or her dependents or to
6 effect reparation and in either case that the ward keep an
7 account of his or her earnings and report the same to the
8 probation officer and apply these earnings as directed by
9 the court. The court may impose and require any and all
10 reasonable conditions that it may determine fitting and
11 proper to the end that justice may be done and the
12 reformation and rehabilitation of the ward enhanced.

13 (c) When a ward described in subdivision (a) is placed
14 under the supervision of the probation officer or
15 committed to the care, custody, and control of the
16 probation officer, and is required as a condition of
17 probation to participate in community service or graffiti
18 cleanup, the court may impose a condition that if the
19 minor unreasonably fails to attend or unreasonably leaves
20 prior to completing the assigned daily hours of
21 community service or graffiti cleanup, a law enforcement
22 officer may take the minor into custody for the purpose
23 of returning the minor to the site of the community
24 service or graffiti cleanup.

25 *SEC. 4. No reimbursement is required by this act*
26 *pursuant to Section 6 of Article XIII B of the California*
27 *Constitution because the only costs that may be incurred*
28 *by a local agency or school district will be incurred*
29 *because this act creates a new crime or infraction,*
30 *eliminates a crime or infraction, or changes the penalty*
31 *for a crime or infraction, within the meaning of Section*
32 *17556 of the Government Code, or changes the definition*
33 *of a crime within the meaning of Section 6 of Article*
34 *XIII B of the California Constitution.*

